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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,886	12/28/2001	Jay D. Hodson	24180-907000	1633

7590 11/30/2004

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EXAMINER

RHEE, JANE J

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/034,886

Applicant(s)

HODSON ET AL.

Examiner

Jane Rhee

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 31-49, 70.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

ADVISORY ACTION

Acknowledgement of Applicant's Amendment

1. The proposed amendment will not be entered because they raise new issues that would require further consideration and/or search. The new issue is "a first laser scored pattern in at least one layer of the plurality of layers of the flexible film in the first surface of the flexible film but not in the second surface of the flexible film". Applicant previously claimed a first laser score pattern in the flexible film and now further limited the claim to comprise a first laser score pattern pattern in at least one layer of the plurality of layers of the flexible film in the first surface of the flexible film but not in the second surface of the flexible film.

Response to Arguments

2. Applicant's arguments filed 11/10/2004 have been fully considered but they are not persuasive.

In response to applicant's request for clarification of whether claim 37 stands rejected or allowed, in the previous office action dated July 8,2004, claim 37 was addressed on page 4 in lines 20-21. Claim 37 claims wherein the first layer forms a barrier layer of the flexible film. Strand et al. discloses that the flexible film comprises an outer material and a barrier layer (figure 17 number 16b).

In response to applicant's request for reconsideration of the finality of the previous office action dated July 8,2004, since the new ground of rejection could and should have been made in the first office action dated 12/17/2003, the timing of when a reference was used to reject the claims does not determine the finality of a rejection.

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Applicant has amended the claims in response 4/22/2004 which led the examiner to consider other references such as Strand et al. During the examination of the first rejection the examiner felt that the Huizinga and Schlaeppi et al. reference was sufficient to rejection applicant's claims. However, since applicant amended the claims in response 4/22/2004, the examiner further searched and further considered other references which created a new rejection in light of the amendment to the claims.

In responses to applicant's argument that the Strand et al. reference does not disclose a first laser scored pattern in at least one layer of the plurality of layers of the flexible film in the first surface of the flexible film but not in the second surface of the flexible film, applicant's arguments are directed to the new issue which were not considered before and therefore are moot since the new issue requires further consideration and search.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jane Rhee
November 29, 2004



HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

11/29/04